

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIMMY LEWIS THOMAS,

Petitioner,

v.

DAVE VASBINDER,

Respondent.

CASE NO. 2:06-cv-10974
HONORABLE GERALD E. ROSEN
MAGISTRATE JUDGE MAJZOUN

ORDER OF DISMISSAL

This matter is pending before the Court on petitioner Jimmy Lewis Thomas's *pro se* habeas corpus petition under 28 U.S.C. § 2254. The habeas petition attacks Petitioner's 2004 state conviction for felonious assault. Petitioner was sentenced on July 13, 2004, to a term of two to four years in prison for the crime.

The same conviction and sentence are the subject of a habeas petition currently pending before United States District Judge Paul D. Borman. *See Thomas v. Vasbinder*, No. 2:06-cv-10799 (E.D. Mich. Feb. 22, 2006).

"[G]enerally, a suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions." *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993) (internal quotation marks and citations omitted). A district court, as part of its general power to administer its docket, "may stay or dismiss a case that is duplicative of another federal court suit." *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138 (2d Cir. 2000).

Piedra v. Aguirre, 125 Fed. Appx. 968, 969 (10th Cir. 2005) (unpublished opinion). A district court's dismissal of a case as being duplicative of another case or as frivolous is reviewable for abuse of discretion. *Id.*

The claims, parties, and available relief in this case are the same as the ones in case number 2:06-cv-10799, which is pending before Judge Borman. Therefore, this action is DISMISSED as duplicative of case number 2:06-cv-10799. The parties shall file future documents pertaining to Petitioner's claims in case number 2:06-cv-10799.

s/Gerald E. Rosen

Gerald E. Rosen
United States District Judge

Dated: May 24, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 24, 2006, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager